Supreme Court, U.S.
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OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

In re RICHARD ARIZPE; ET AL
Petitioners
RICHARD ARIZPE
Petitioner

V.

NORMAN Y. MINETA, SECRETARY,
U.S. DEPARTMENT OF TRANSPORTATION;
FEDERAL AVIATION ADMINISTRATION
Respondents

On Petition For An Extraordinary Writ
To The United States Court of Appeals
For The Fifth Circuit

PETITION for an EXTRAORDINARY WRIT of PROHIBITION-MANDAMUS

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I. QUESTIONS PRESENTED FOR REVIEW

A. Does the 7th Amendment to the U.S. Constitution; specifically, ***"[t]he right of trial by jury shall be preserved"***(excerpt); provide the constitutional right of a trial by jury in a civil venue, wherein no other statute, or case law may override, or circumvent, that upon meeting prima facie burdens, and demonstrating intentional discrimination to a standard of clear and convincing evidence, creating genuine dispute/issues of material fact, such a supreme right of trial by jury cannot, by any court, be denied to one Citizen of the United States.

B. Does the 13th Amendment, Sec. 1, to the U.S. Constitution; specifically, ***"Neither slavery nor involuntary servitude, ...shall exist within the United States..."***(excerpt); provide the constitutional right to prohibit the Federal Aviation Administration, under the direction of the Department of Transportation, under the direction of the Executive Branch of the United States Government, under the direction of the President of the United States, with oversight approval by the Legislative Branch of the United States Government; from authorizing, and implementing, a coordinated scheme to involuntarily select, and/or, involuntarily relocate, Federal Civil Service employees for the purpose to concoct the perception of racial equality within the ranks of the Federal Civil Service, hence, forcing United States Citizens to a degree of ***"involuntary servitude"***? In essence, becoming a 3rd Millennium, high-tech, "badge", and/or, "incident", of involuntary servitude.

C. Does Article VI of the U.S. Constitution; specifically, ***"The Senators and Representatives ..., and all executives and judicial Officers..., of the United States...., shall be bound by Oath or Affirmation, to support this Constitution..."***(excerpt); provide that in the event of a

breach of such an Oath by multiple entities of subject parties, that U.S. Citizens/Federal Civil Servants, who, bare the adverse impact of such betrayal of the Oath to Support the U.S. Constitution, have the right to Petition for an Extra Ordinary Writ to the highest, and ultimate authoritative entity, the United States Supreme Court, who also Oaths to support the Constitution, to seek relief from the unlawful actions of the same subject parties.

D. Does Article II, Sec. 3, of the U.S. Constitution; specifically in reference to the President of the United States of America, wherein, ***"[h]e shall take care that the laws be faithfully executed..."***(excerpt); provide the constitutional mandate, that in the event of massive discrimination within a federal governmental entity, it is the responsibility of the President to protect the rights of United States Citizens who also are Federal Civil Servants against unlawful employment actions that have ultimately resulted in "Official Oppression", and, "Involuntary Servitude", and that the Constitution, and relevant statutes of Law of the U.S. provides for relief of such atrocities, in the midst of an evidentiary absence of a Presidential concern for such unlawful actions?

E. Does Article I, Sec. 8, of the U.S. Constitution; specifically, ***"The Congress shall have the Power to...provide for the common Defense and general Welfare of the United States;...To regulate Commerce...among the several states..."***, and/or, does Article III, Sec. 2 of the U.S. Constitution; specifically, ***"The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, ...---to Controversies to which the United States shall be a Party;..."*** and, ***"In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact"***(excerpts); with consideration that the Executive and Legislative Branches having been duly

notified of the issues within this instant case, is the U.S. Supreme Court the final authority with the responsibility to exercise it's sworn Oath(Article VI), to uphold the Constitution by holding accountable multiple entities of the U. S. Government, for the actions, and inactions, of the past and present, to address the massive, nationwide violations of, inter alia, the Civil Rights Act, the Age in Discrimination Act, and the Privacy Act, statutes that creates an adverse impact to Interstate Commerce, and compromises the Safety of the Flying Public, with reference to Article I Commerce Clause, in such an egregious fashion so as to place in jeopardy the entire Mission of the Federal Aviation Administration?

F. Does the 5th Amendment to the U.S. Constitution; specifically, ***"No person shall....be deprived of life, liberty, or property, without due process of law"***(excerpt); and/or, the 14th Amendment, Sec. 1, to the U.S. Constitution; specifically, ***"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."***(excerpt); and/or, the 1st Amendment to the U.S. Constitution; specifically, ***"Congress shall make no law...abridging the freedom of speech,...or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."***(excerpt); with reference to the constitutional violations of involuntary servitude, the denial of access to a trial by jury, the Federal Governments explicit order to all employees to testify ***only*** on behalf of the FAA, the affirmative misconduct to destroy critical evidence, and the subsequent judicial restraint by all court levels, to date, to disallow the redress of grievances; for all Federal Civil Servants deprived of the Tranquility of Life, and the Liberty to function within a society free of

discrimination, without fear of losing one's employment(Property); provide the constitutional right to the equal protection of laws to be finally heard by the U.S. Supreme Court, through this instant Extraordinary Writ?

G. Does the 7th Amendment to the U.S. Constitution; specifically, ***"no fact tried by a jury, shall be otherwise reexamined in any court of the United States..."***(excerpt); protect Plaintiffs against application of *res judicata/collateral estoppel* doctrines when:

* Defendant failed to provide an, "Answer", to a Summons, either in the first case that is used as the cornerstone for res judicata application, or to this instant case?
* there exists no trial, or jury, or facts tried by a jury, in the first case?
* the judgment in the first case was derived through credibility determinations, weighing of evidence, and drawing of legitimate inferences from the facts, by Magistrate, District, and Appeals, Court Judges?
* the first case was Dismissed by Summary Judgment?

H. Does the 14th Amendment to the U.S. Constitution; specifically, ***"...No state..., shall deny to any person within its jurisdiction the equal protection of the laws"***(excerpt); with reference to six of the statutes at Title VII, 42 USC, protect Plaintiffs against application of *res judicata/collateral estoppel* doctrines when:

* during the prosecution of the first case, there is factually supported, documented evidence of collusion, fraud, concealing existing documented evidence, with a standing order, that is still in effect today, of intentional spoliation by the Defendant, rendering the first case to be transparently invalid? [42 USC, 2000e-2(n)(2)-(C)]
* the instant case contains claims that are different from the claims in the first case? [42 USC, 2000e-2(n)(1)(A)]

* the instant case contains class action claims as opposed to individual claims of the first case, and the litigated judgment of the first case is invalid by Supreme Court and Constitutional standards? [42 USC, 2000e-2(n)(2)-(B)]
* the Department of Justice, and the EEOC failed to take action as mandated in 42 USC, 2000e-5(f)(2), when notified of the ongoing mass discrimination. [42 USC, 2000e-2(n)(2)-(B)]
* a multitude of new facts surfaced between adjudication of the first and this instant case? [42 USC, 2000e-2(n)(1)(B)(ii)]
* Title VII statute specifically states the rights to due process of law as provided for in the U.S. Constitution? [42 USC, 2000e-2(n)(2)-(D)]
* to date, reference to this instant case, no Government agency, or official has taken the responsibility to assure non-discrimination in Federal employment as required by the Constitution? [42 USC, 2000e-16]

I. Does the 9th Amendment to the U.S. Constitution; ***"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people"***; and/or, does the 14th Amendment to the U.S. Constitution; specifically, ***"...No state..., shall deny to any person within its jurisdiction the equal protection of the laws"***(excerpt); provide for the constitutional right of non attorney citizens, when conducting business within the Federal Judicial System in pro se capacity, from being denied access to Law Libraries that are being housed in public buildings; procured, maintained, and supported through federal taxes?

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IV. CITATIONS OF REPORTS (R.14d)

All references to Petition for Writ of Certiorari, in this section, will use PWC as acronym.

5th C. Crt. Appeal Case No. 02-50948, 7/8/03, Petition for Rehearing En Banc is DENIED. (Petition for Writ of Certiorari, PWC-Appendix p/32-33)

5th C. Crt. Appeal Case No. 02-50948, 7/16/03, ISSUED AS MANDATE, to pay costs of appeal. (PWC-Appendix p/34-35)

5th C. Crt. Appeal Case No. 02-50948, 4/28/03, U.S.D.C. Judgment AFFIRMED. (PWC-Appendix p/36-39, and pages 12, 13, 16-24, 27-30 of PWC)

5th C. Crt. Appeal Case No. 02-50948, 4/3/03, ORDERED, Appellant Motion to Appear before the 5th C. Crt. and Motion for Disqualification of Agency Attorney's, DENIED. (PWC-Appendix p/40)

5th C. Crt. Appeal Case No. 02-50948, 2/19/03, ORDERED, Appellant Motions for Permanent, Preliminary, and Prohibitory Injunctions DENIED. (PWC-Appendix p/41)

Civil Action Case No. SA-02-CA-0115 FB, 7/30/02, U.S.D.C. for WDT, ORDER Accepting all Recommendations of U.S. Magistrate Judge. Defendant's Motion for Summary Judgment GRANTED and Case DISSMISSED. (PWC-Appendix p/42-47; Also Dkt-31, And pages 19-24, 27-30 of PWC)

Civil Action Case No. SA-02-CA-0115 FB, 5/30/02, U.S.D.C. for WDT, REPORT and RECOMMENDATION of Magistrate Judge to Grant Defendant's Motion to Dismiss, in

the Alternative, for Summary Judgment. (PWC-Appendix p/48-70; Also Dkt-27, and pages 18-24, 27-30 of PWC)

Civil Action Case No. SA-02-CA-0115 FB, 5/23/02, U.S.D.C. for WDT, REPORT and RECOMMENDATION of Magistrate Judge to Deny Plaintiff('s) Motion for Injunctive Relief to Disqualify FAA Attorney's. (PWC-Appendix p/71-80; Also Dkt-25)

Civil Action Case No. SA-02-CA-0115 FB, 4/9/02, U.S.D.C. for WDT, (In text referred to as Arizpe 02). Magistrate Judge, MJ, ORDER to Plaintiff('s), to file response to Defendant's Motion to Dismiss within 14 days, with warning to dismiss the case for failure to comply and /or failure to timely prosecute. (PWC-Appendix p/81; Also Dkt-17)

EEOC Case No. 100-98-8176P, 10/31/01, Request for Reconsideration DENIED. (PWC-Appendix p/82-84; Also Dkt-1, Vol-IV, Tab-EEOC Denial of Reconsideration Request)

EEOC Case No. 100-98-8176P, 7/13/01, EEOC-OFO AFFIRMED 3/2/00 decision to deny class certification. (PWC-Appendix p/85-88; Also Dkt-1, Vol-IV, Tab-EEOC Appeal Decision/Affirmed)

EEOC Case No. 100-98-8176P, 3/2/00, Class Certification DENIED, and Class Complaint DISMISSED. DOT Decision to comply. (PWC-Appendix p/89-105; Also Dkt-1, Vol-IV, Tab-EEOC Decision)

5th C. Crt. Appeal Case No. 99-50931, 6/5/00, U.S.D.C. Judgment of SA-98-CA-0610 OG, AFFIRMED. (PWC-Appendix p/106-107; Also Dkt-16, attach-4; and pages 19-22, 25-27 of PWC)

Civil Action No. SA-98-CA-0610 OG, 9/2/99, District Court Judge, Orlando Garcia, ACCEPTS all Recommendations of M.J. Defendant's Motion for Summary Judgment GRANTED. Cause of Action DISSMISSED. (PWC-Appendix p/108-113; Also Dkt-16, attach-3; and pages 13, 19-22, 25-27 of PWC)

Civil Action No. SA-98-CA-0610 OG, 7/19/99, U.S.D.C. for WDT., (In text referred to as Arizpe 98). Report and Recommendation of the U.S. Magistrate Judge. (PWC-Appendix p/114-144; Also Dkt-16, attach-2; and pages 14-16, 19-22, 24-27 of PWC)

V. BASIS for SUPREME COURT JURISDICTION (R. 14e)

The statutory provisions believed to confer upon the United States Supreme Court the original jurisdiction to review *de novo* on Petition for an Extraordinary Writ with reference to the judgments in Case No. SA-02-CA-0115 FB of the U.S.D.C., and, Appeal Case No. 02-50948 of the 5th Circuit Court; is the U.S. Constitution, Article III, "The judicial Power of the United States shall be vested in one Supreme Court..."; and, "The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States,....to Controversies to which the United States shall be a Party...", and, "In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact"(excerpts).

This Extraordinary Writ will provide the necessary vehicle for the Supreme Court to implement it's appellate jurisdiction, by demonstrating the exceptional circumstances that warrant the exercise of the Court's discretionary powers, and as has been demonstrated by the judicial record of the

case in reference, adequate relief cannot be obtained in any other form, or from any other court.

The U.S.D.C. for Western District of Texas granted Defendant's Motion for Summary Judgment and Dismissed Case No. SA-02-CA-0115 FB, on 7/30/02. An appeal before the United States Court of Appeals for the Fifth Circuit, No. 02-50948, was denied on 4/28/03. A Petition for Rehearing En Banc at the 5th C. Crt. was denied on 7/8/03. A Motion for Extension of Time to file Petition for Writ of Certiorari is timely filed and received by the S. Crt. on 9/22/03. Motion for Extension of Time to file a Petition for Writ of Certiorari denied on 10/14/03. A Petition for Writ of Certiorari, and Motion for Leave, were filed on 12/3/03. Motion to direct the Clerk to file a Petition for a Writ of Certiorari out of time is denied on 1/12/04.

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VII. STATEMENT OF THE CASE (R.14g)

[1]In response to the Chief Financial Officers Act of 1990, and the [2]Government Performance and Results Act of 1993,

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[1] Footnote references to copies of documents within the appendix of this instant Extra Ordinary Writ, EOW, will cite page number of the Writ; (example: EOW p/12).

Footnote references to copies of documents within the Petition for Writ of Certiorari, PWC, will cite page number of the Writ; (example: PWC p/12).

Footnote references to documents located within the four separate Volumes of documents of District Court Docket No. 1, will cite the Docket, Volume No., Tab No. at page number, or guidance to find page in reference; (example: Dkt-1, Vol-IV, Tab CCCG-SW#8, fourth page, or at 43).

[2] Dkt-1, Vol-II, Tab 6-17, at ii.

mandating the systematic measuring of performance, and achievement of results, *inter alia*, within the [3]EEO, Diversity, and Affirmative Action arenas, on or about March of 1993, the Department of Transportation, Federal Aviation Administration, Airway Facilities Division, FAA/AF, with the empowerment of being released from multiple Title 5 Civil Service requirements by the Office of Personnel Management, OPM, while having [4]knowledge of the questionable legal implications, embarked on a zealous [5]Reinvention Laboratory Experiment/Pilot Program, to include as part of a congressionally mandated reorganization plan to reduce management to employee ratios; a plan, through unlawful means, to also change the Diversity Culture within specific Demographic Locales of the FAA, and to create a Reduction in Force, without implementing RIF procedures. Agency documentation explicitly states that the Diversity Plan is staged to be implemented in three five year increments, with the first ending in 2000, the second ending in 2005, and the third ending in 2010.[6] In compliance with the Diversity Plan, the agency developed, with guidance and instruction from the then Administrator of the FAA, Mr. David R. Hinson,[7] and with the assistance from the Administrator for Civil Rights, ACR-1, listings of FAA/AF employees, specifically designating an employees [8]Race,

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[3] Petition for Writ of Certiorari, PWC p/150-151. Also see Dkt-1, Vol-II, Tab's 6/4-9; 6-13 at 178; 6-14; 6-15 at 195. Dkt-1, Vol-I, Tab CCCG-SW#4, at 4-10, 11; Tab-CCCG-SW#3, attach-10.

[4] PWC p/148-149

[5] Dkt-1, Vol-IV, Tab "Letter to the President, Senate & Congress", at 6,10-12.

[6] Dkt-1, Vol-I, Tab CCCG-SW#5, attach-#3, at (5-3-2).

[7] PWC p/150-151

[8] Page 161 of the appendix within PWC is an excerpt of the listings of employees with code designations for Race, National Origin, and Gender. One of listings, with over 350 employees listed, is found at Dkt-1, Vol-III, Tab 6-48, at 793-802.

National Origin, & Gender, RNOG, by code, and [9]Age, in order to make race and age based employment decisions to abolish and create specific positions at specific demographic locales, and to subsequently make race and age based selections for subject positions. The agency did, and will continue, at least through the year 2010, to intentionally discriminate, segregate, and set apart protected groups of races, national origins, age, and gender, to implement the Diversity Plan, i.e., to forcibly create a [10]Culture Change. The age discrimination claim is considered to be a [11]Backdoor Reduction In Force.

With respect to the Diversity Plan that was incorporated into the reorganization, the agency, on 6/30/95, developed specific statistical [12]Racial Profiling of pre and post realignment structures. "Sector" RNOG profiles were developed to facilitate the systematic relocation of employees of specific RNOG to the newly developed "Systems Management Offices, SMO's." Sectors, that would subsequently comprise the Gulf Coast SMO after realignment, were racially profiled.[13] The agency was using

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[9] Dkt-1, Vol-II, Tab-6-33, at 401-403.

[10] Dkt-1, Vol-II, at 149, 152, 153, 169, 170, 174. Dkt-1, Vol-III, Tab 6-52. Also see Report to the Executive and Congressional Branches from the Merit Systems Protection Board, Dkt-1, Vol-III, Tab 6-52.

[11] Dkt-1, Vol-II, Tab 6-29, where against astronomical odds in a facially neutral reorganization, the agency's own records demonstrate that each listed impacted employee who met eligibility for discontinued service requirements, was targeted, set aside, segregated, from the rest of impacted employees, for relocation.

[12] PWC p/155-160 are excerpts from Dkt-1, Vol-I, Tab CCCG-SW #5, attachment No. 2, after Tab-SECTOR/SMO RNO LISTS, at (5-2-2)-(5-2-23)

[13] PWC p/155-159

RNOG employee listings, as excerpted on page 161 of Petition for Writ of Certiorari, PWC, along with statistical demographic profiles, as excerpted on pages 155-160 of PWC, to implement Race based decision making in the creation of positions, and selection for same positions. The agency, as early as 12/'93, was specifically made aware of the illegal practices as warned by the [14]Southern Region Administrator, ASO-1.

As a motivational incentive for agency Administrators, Directors, Managers, and Supervisors; monetary and benefit bonuses were offered through out the Line of Business, LOB, ranging from the doubling of ones annual salary, to several thousand dollars, to promotions, in compensation for achieving the highly valued diversity results. There is an undeniable fact that a multitude of Civil Servants in decision making authority [15]profited from the pain and suffering of other Civil Servants being transferred across this nation for the specific purpose of correcting minority representation, and forcing older aged employees to resign.

On the eve of having the Social Engineering Experimentation Plan exposed, for the unlawful adverse employment action that it is, the FAA, through the highest ranking Civil Rights Officer in the Nation, the Assistant Administrator for Civil Rights, ACR-1, embarked on a cover up plan that only exacerbated the degree of culpability, by ordering the [16]disposal of all Race, National Origin, and Gender, RNOG, listings that were being used, on a national scale, by the FAA to implement such a Reinvention Laboratory Experiment. The national memorandum ordering the disposal of this critical evidence, originated on 8/26/97, and to this day, is still in effect. This affirmative misconduct

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[14] Dkt-1, Vol-I, Tab CCCG-SW#3, attach-12; & Vol-II, Tab 6-43.
[15] Dkt-1, Vol-III, Tab 6-44.
[16] PWC p/145-147

of intentional spoliation, is the subsequent adverse employment action that compromised, and continues to compromise, [17]thousands of FAA discrimination cases. At the time this memorandum was distributed, there were thousands of active EEO administrative and judicial cases challenging the agency's practice of using RNOG information to make race based employment decisions.

Even after the agency was warned and ordered to dispose of the RNOG listings, there is undeniable documented [18]evidence, dated 7/30/98, and signed in concurrence by AAF-1, the highest ranking official in Airway Facilities, DOT/FAA/AF, that the agency continued to use the RNOG information to make race based selection decisions. The bidders listed in this document hail from such locations as New England, Alaska, Texas, and the [19]Central Region, demonstrating, to a standard of beyond a reasonable doubt, that the practice of Race based decision making for the selection of positions is a Nationwide Practice, with approval and concurrence at the highest levels of the Department of Transportation/Federal Aviation Administration.

In addition to the spoliation issue, the distribution of the [20]Memorandum dated 3/11/93, by the Office of the Chief Counsel, AGC-1, wherein all FAA employees are ordered;

> ***"The rules also provide that in proceedings involving the United States, an employee may testify as to facts and may give opinion testimony only on behalf of the United States."*** (Emphasis added)

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[17] Dkt-1, Vol-III, Tab 6-48, at 675-712.
[18] PWC p/152-154
[19] Great Lakes area
[20] PWC p/148-149

Considering that the very Department of Transportation that FAA employees work for, is, for all legal purposes, the United States, and assuming that the agency now considers 29 year exemplary employees, such as myself, Richard Arizpe, to be an adversary to the United States, this memorandum essentially warns with implications of jeopardizing ones employment, and prevents, any other employees who may have evidence or testimony in support of the allegations stated above, from coming forward and testifying to the ***Truth***, and/or, on behalf of the ***Constitution of the United States***. The agency was well aware of the legal predicament that the Social Experimentation was going to impose, and such orders to, "[a]bridge the freedom of speech"; in essence preventing employees, (Citizens), from the right to "peaceably assemble", without fear of losing ones employment, as is the case with this memorandum, is a violation of the First Amendment of the Constitution of the USA. This 3/11/93 memorandum is also still in effect to this day.

It is the contention of the Plaintiff('s) in this class cause, that the issuance of the 3/11/93 and 8/26/97 Memorandums, have sabotaged, and critically compromised, every Civil Rights, EEO, ADEA, & Privacy Act, Discrimination case that has been filed against the FAA since March of 1993 to the date of this instant Extraordinary Writ. The agency has demonstrated no attempts to cease the illegal practices. What started out in 1993, and continues at this moment, and is scheduled to continue through the year 2010, violated, and is currently violating, the Civil and Constitutional Rights of Citizens of these United States of America.

14 (g) (ii). BASIS FOR FEDERAL JURISDICTION IN THE COURT OF FIRST INSTANCE

United States District Court for the Western District of Texas, San Antonio Division, subject matter jurisdiction is pursuant to 42 U.S.C. 2000e-16(c) and 29 U.S.C. 633(a).

VIII. REASONS FOR ALLOWANCE OF THE EXTRAORDINARY WRIT (R. 14h)

A. S. CRT. REFUSAL to ACCEPT APPLICATION of PETITION for WRIT of CERTIORARI.

Regardless the judicial history and the Supreme Courts optional use of a procedural technicality of timeliness associated with the Application for a Writ of Certiorari to the instant case, all Justices of the United States Supreme Court have, under Oath,[21] sworn to uphold the Constitution of the United States of America, and with the understanding that to grant an Extraordinary Writ is a privilege, and not a right; it is also implicitly, and statutorily, understood that United States Citizens do have an [22]Unalienable, and Constitutional Right to Life, Liberty, Property, and the pursuit of Happiness to live, function, and work, in [23]Tranquility; and when any of these principle rights are violated by two of the Branches of

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[21] See EOW/p 39, Article VI-"[a]ll judicial Officers, ..., shall be bound by Oath or Affirmation, to support this Constitution"(excerpt)

[22] Declaration of Independence-"We hold these truths to be self evident, that all men are created equal, that they are ***endowed by their Creator with certain unalienable rights***, that among these are Life, Liberty, and the pursuit of Happiness." (excerpt; and emphasis added)

[23] Preamble to the Constitution-"We the people of the United States, in Order to form a more perfect Union, ***establish Justice, insure domestic Tranquility***,...promote the general Welfare, and secure the blessings of Liberty, ...do ordain and establish this Constitution for the United States of America." (excerpt; and emphasis added)

the very same government, that being the Executive & Legislative, that is charged, and mandated under Oath, with supporting the Constitution; then the privilege of an Extraordinary Writ, is superseded, and raised to the level of a Right, through the 1st & 14th Amendments,[24] to allow Citizens suffering such violations the right to redress such grievances, according to the due process of law, in a fair and neutral forum to the Judicial Branch, ie; the United States Supreme Court.

By the sacrifice of thousands of pre, and post, Revolutionary War colonists; including the blood as was strewn across this land by U.S. Citizens, to ultimately produce the 13th Amendment,[25] and the Civil Rights Laws of 1866, 1964, & 1991,[26] including the hundreds of lives that the United States is presently sacrificing to the cause of Democracy in foreign lands; Petitioner('s), respectfully, and in reverent acknowledgement of such sacrifices, secure access to such statutes, in defense against a government that has imposed a 3rd Millennium, high-tech version of involuntary servitude, in violation of the 13th Amendment. The Supreme Court is duty bound, by Oath, to uphold the Constitutional access by it's citizens to the due process of law. The ***due process*** is not only technically procedural, but encompasses a ***substantive characteristic***, hence, judicial restraint by arbitrary, and optional, application of procedural technicalities, should not be a shield to deny Citizens access to the Unalienable Rights through due process. The most significant of parallels to the Supreme Courts most recent decision to use an arbitrarily applied timeliness technicality to prevent audience of a Petition for Writ of Certiorari in this instant case, is found in a most compelling document:

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[24] See page 40.
[25] See page 40.
[26] See page 40-42.

"He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures."

Declaration of Independence 1776

The forefathers of this nation were cognizant of the arbitrary application of technicalities by King George III, in the interest of implementing measures which would ultimately serve to deny the rights that subsequently became the Articles and Amendments of our own Constitution.

For the Supreme Court to deny this final avenue for redress, is tantamount to an implicit abandonment of existing laws; i.e., the tacit approval by the Judicial Branch of the other two Branches of Government, in denial of it's responsibilities and duties to provide the check and balance by which our entire existence as a free nation is predicated. Before we became an independent nation, the very same afflictions as have been experienced by the Petitioners in this instant case, became cause to declare relief from the Oppressions of King George III.

"He has obstructed the Administration of Justice...For depriving us, in many cases, of the benefits of Trial by Jury...For...abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments...In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury."(excerpts; emphasis added)

Declaration of Independence 1776

On specific point of the denial of the Application to Petition for Writ of Certiorari, it seems that the Honorable Justice Antonin Scalia, without signature, on behalf of the entire Supreme Court, through letters by the Clerk of the Court, is implementing an optional adherence to a timing deadline, when he could just as easily provided a non-attorney, U.S. Citizen, arguing *pro se*, who was, and continues, to simultaneously contest the employment termination, (ie; firing), efforts by his employer; the necessary extension of 60 more days to produce the Writ of Certiorari.

Though it is the belief of Petitioners that the Constitution and Fundamental Laws of our nation, as demonstrated above, should be sufficient reason for the Supreme Court to accept the instant Extraordinary Writ, along with Reconsideration of the Writ of Certiorari already in possession of the Supreme Court, we submit the following argument for consideration.

B. INVOLUNTARY SERVITUDE & RELOCATION/MIGRATION SOLUTION

The first violations of the unalienable God given rights of Americans[27] occurred immediately upon the finding of the New World by Christopher Columbus in 1492. Within a year, 500 "Arawak", Native Americans were captured and **relocated,** by Christopher Columbus, to Spain for slave trade.[28] 1509 marked the beginning of the organized African slave trade(**relocation**) with America. In 1638, Native Americans, named, "Quinnipiac", were the first Native Americans forced into an agreement to, "**relocate**" to the first

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[27] "America", named after Amerigo Vespucci, did not become the name for the "New World" until 1507.

[28] Native American History, 1996, Judith E. Nies, Ballantine Books/Random House, inc. at page 70.

"Indian Reservation" in Connecticut, primarily, so that English Puritans could make economic use of the Quinnipiac dwelling lands.[29] President Thomas Jefferson, in 1803, after the Louisiana Purchase, proposed the **relocation/migration**[30] of all Indians from East, to West, of the Mississippi, in order to accommodate the insatiable economic appetite of the cotton trade.[31] Andrew Jackson executed the, ***"Indian Removal Law"***, by **relocating/migrating** the Chickasaw, Cherokee, Creek, Choctaw, and Seminole to Oklahoma in the 1830's.[32] By 1900, 95% of all dwelling land of Native American Tribes had been confiscated by the United States, and most all Native Americans had been **relocated** to reservations.

In 1942, the ***"U.S. War Relocation Authority"***, in response to Japanese attacks on Pearl Harbor, confiscated homes, land, and property, from thousands of Americans, with Japanese ancestry, who were **relocated** to internment camps, primarily in Arizona.[33]

In 1964, (156 years after the Migration deadline of Article I, and 99 years after the 13th Amendment), the esteemed Senator Richard Brevard Russell, Jr. offered a bill to establish a ***"Federal Racial Relocation Commission"*** that would more equitably distribute, (ie; **relocate/migrate**), African Americans throughout the country so that every state would assume 10 percent of the U.S. Black population.

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[29] Id. at 139.

[30] See page 39. Article I established the authority for the **Migration** of Persons for Slave Trade. The practice was to stop in 1808, hence the Civil War. XIII Amendment was supposed to cancel the **Migration Clause**. The FAA implemented it's own version, 1993-2004.

[31] Native American History, 1996, Judith E. Nies, Ballantine Books/Random House, inc. at page 227.

[32] Id. at 244

[33] Id. at 343.

In September 1997, the U.S. Merit System Protection Board issues a report titled, "Achieving a Representative Federal Workforce: Addressing the Barriers to Hispanic Participation", to President William Jefferson Clinton, the Senate, and the House of Representatives, stating:

> ***"There is a major mismatch between where most Hispanics live and work and where most Federal jobs are located."***[34]

[35]FAA documents demonstrate that as early as July of 1994, the FAA's mission in the diversity arena was concentrated on ***migrating*** Hispanics to the underrepresented demographic locales:

"[i]ncrease Hispanic representation within the agency based on demographics".

In April 1995, with approval of the Affirmative Employment Program for Minorities and Women by the highest ranking official of the FAA, the Administrator of the FAA, in response to the Government Performance and Results Act, GPRA of 1993, perhaps one of the most significant of mandates specifically addressing the discrimination for the instant case,

"Since few outside hiring opportunities will exist over the next several years, we will look more closely at internal placement actions(i.e., relocations), to achieve a better diversity balance..."(excerpts; parenthesis and emphasis added) [36]

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[34] Dkt-1, Vol-III, Tab 6-52 at 831.
[35] Dkt-1, Vol-II, Tab 6-13 at 178.
[36] Dkt-1, Vol-II, Tab 6-15, page 195.

The Federal Government incentive of a monetary reward in compensation for achieving the **relocation** of under/over represented groups is demonstrated by the *"Recommendation for Equal Employment Opportunity (Diversity) Award"*, to the then head of FAA/Airway Facilities; *"Mr. Archilla personally has persevered in ensuring that supervisory selections made during the AF realignment fairly depicted the demographics of each locale..."* (excerpt)[37]

The Point of this compressed history, on what has become the repetitious solution, to what Rev. Martin Luther King, Jr. referred to as, this nations dichotomist personality, between the Unalienable Rights of Freedom and Liberty, against it's willingness to implement involuntary servitude by implementation of ***"The Relocation/Migration Solution"***, for the gain of others, even now, to the realm of Federal Employment, is to demonstrate that the same solution as has existed for millenniums, from the inception of this nation, continues in 2004, and according to the FAA's own records, is scheduled to continue through 2010. The motivation for the ***relocation solution*** has always contained an element of compensation for one people, as a result of the harms to the other people. The evidence on record for this instant case clearly demonstrates that the ***migration*** that Senator Richard Russell was not able to accomplish in 1964, the FAA has indeed successfully accomplished in 2004, not only with African Americans, but with Hispanics, and Native Americans as well. Records clearly demonstrate that monetary compensation was a motivating factor for implementation of the ***relocation solution*** in the FAA. An irony in the progress of the discrimination within this case, is that the present Secretary of the Department of Transportation, the Honorable Norman Y. Mineta, ie; The Defendant; himself having experienced the illegal

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[37] Archilla was the FAA-AF Director. Dkt-1, Vol-I, Tab CCCG-SW#4, page 4-16.

discrimination during the 1942 **relocation** of thousands of Americans of Japanese ancestry by the ***"U.S. War Relocation Authority"***; knows, perhaps better than anyone in the entire Federal Government, the effects that such unlawful employment actions can impose on the employees, their families, and ultimately, as attested by his own writing, the adverse impact that such actions can have upon the Mission of the FAA.

The evidence in the instant case is beyond a reasonable doubt that FAA Federal Civil Service employees, at a minimum, are presently suffering what is legally considered the ***"badges"*** and/or ***"incidents"*** of a new era of ***"involuntary servitude".*** The unlawful continuation of the Migration Clause of Article I, and a violation of the 13th Amendment to the U.S. Constitution.[38] The issues in this instant case have come to a point in time, where the United States Supreme Court, irregardless of it's responsibility for judicial restraint, must, in the interest of the survivability of the document we all hold so dear, exercise it's Constitutional duty, as sworn to do by Oath, and at a minimum, allow this Extraordinary Writ an audience; and at a maximum, oversee the correction of the wrongs committed upon citizens of these United States.

C. CONSTITUTIONAL OATH of ARTICLE VI

Record on the instant case clearly establishes that the highest office in the United States Government, the Office of the President of the United States, has been duly informed of the severity, magnitude, and implications of the case. A letter, dated September 27th, 2000, to the then President, W. J. Clinton, and the Vice President, Albert Gore, and no less than 22 Committees, and Subcommittees, of the Congress, and the Senate; in total, 36 U.S. Government Officials and Offices,

[38] See page 39-40.

was served, including then Senator John Ashcroft, who was Chairman on the Subcommittee on Constitutional Federalism & Property Rights of Committee on the Judiciary.[39] In unison with the filing of this Class Action suit, on February 5, 2002, all parties, including the present U.S. Attorney General, and the Secretary of the Department of Transportation, the Honorable Norman Y. Mineta, under the administration of President George W. Bush, were Summoned with complete copies of Docket 1, including the four binders of supporting documentation. As argued within the Writ of Certiorari, no administration has ever answered the Summons from a Federal District Court. The Honorable John Ashcroft has demonstrated a willingness to allow the unlawful discrimination to continue, ignores the criminal obstruction of justice to destroy critical evidence by the agency, and has assumed a position to defend the very unlawful actions it is charged, under Oath, to prosecute. With reference to the Attorney Generals actions in this instant case; [40]Article II, Sec. 3, of the U.S. Constitution, wherein the President of the United States has sworn, under Oath of [41]Article VI, that, ***"he shall take care that the laws be faithfully executed..."***, the Honorable John Ashcroft has compromised the Constitution, rendering, by default, the duty of the Supreme Court, under Article III, to defend the Constitution without restraint in this matter. There is an obvious conflict of interest in that for Mr. Ashcroft to investigate the obstruction of justice issue of intentional spoliation, he would have to implicate himself, at least as a Government Official providing tacit approval of the spoliation, since he was a recipient of the Letter to the President dated 9/27/00.[42]

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[39] Dkt-1, Vol-IV, Tab-LTR to the President, Senate, and Congress.
[40] See page 39.
[41] See page 39.
[42] Dkt-1, Vol-IV, Tab-LTR to the President, Senate, and Congress, pg-17.

It was the Oath of Article VI that provided the constitutional authority for the United States Federal Government to initiate a Civil War against those states who breached such Oath, and attempted to secede from the Union. Without nullifying the slavery issue implications; officially, it was the breach of the Constitutional Oath of Article VI that created the crisis and the resultant deaths of thousands of U.S. citizens in the Civil War. The integrity of the ***Oath to the U.S. Constitution*** has been paid for through our history, by the blood of thousands of U.S. citizens, and in light of the evidence presented before the Supreme Court in this instant case, to deny access to the court by Petitioners, can only be construed in the most reserved of terms to be a cognizant disservice to the lives of those expended in support of the Constitution itself.

All Federal Employees are mandated, upon employment, to sign, under Oath, Standard Form 61, SF-61.[43] This is the specific document that has been implemented into Federal Civil Service in compliance with Article VI of the U.S. Constitution.[44] In 1981, the Federal Aviation Administration terminated the employment, (i.e., "fired"), thousands of Air Traffic Controllers because of one simple reason; because they breached the Article VI Oath to support and defend the Constitution, and not strike against the Federal Government, as so specified in SF-61.

There is a correlated nexus of responsibility that occurs on the same day that all Federal employees sign SF-61, in that our employer, the U.S., also mandates the completion of Standard Form SF-181, which is the "Race and National Origin Identification" document, wherein through the Privacy Act of 1974, and/or the Civil Rights Act of 1964(Amended-1991), the **United States Government gives it's word**, (Article VI Oath), that the information on SF-181 will not be

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[43] See page 34-35.

[44] See page 39.

used to implement an adverse employment action against the employee.[45] The President, or the Attorney General, or the Secretary of the Department of Transportation, or the entire Executive Branch, and/or, the Legislative Branch, of Government, are not above the Statutory Law of the Constitution of the United States. In Arizpe v. Mineta, the instant case, it is clearly demonstrated that it is the Legislative and Executive Branches of the Federal Government itself that has breached the Article VI Oath to support and defend the Constitution of the United States. Access to the Supreme Court may be a privilege to a citizen, such as the Lead Petitioner in this case, Richard Arizpe, however, there is a superseding responsibility, in fact a Constitutional duty by Article III, and by Oath ~~of Article~~ VI, for the Supreme Court to intercede on the matter, and exercise it's discretionary, and authoritative power to right the wrongs that have been committed upon citizens of this nation. Denial of the instant Extraordinary Writ by the Supreme Court can be construed as nothing less than the tacit approval for any Federal Government Official to knowingly, and without accountability, to breach the Article VI Oath taken by all Officials to support and defend the Constitution of the United States.

D. TYRANNY in a DEMOCRACY

In a Democracy such as ours, Tyranny does not begin upon the implementation of an Oppressive, Racially Motivated, Socio-Economic Policy upon it's people; it begins when the ultimate responsible authority of the final Branch of Government, ie; in this case, The Supreme Court, by it's tacit approval, joins the other two Branches in consensus to implement such an Unconstitutional Oppression.

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[45] See page 36-38.

It is the sworn duty, by Article VI of the Constitution, of the Supreme Court to prevent such Oppression within the Democracy of the United States of America.

The Defendant, DOT Secretary Norman Y. Mineta, is a subordinate to the President and Vice President of the U.S., and with reference to an *ex-parte* meeting between the Vice President of the United States, the Honorable Dick Cheney, and the Honorable Justice Antonin Scalia, on or about 1/12/04, it is evidently clear that the Defendant was provided an avenue of access to the Supreme Court that was not available to the Petitioners for a Writ of Certiorari on the instant case. It is not unreasonable for one to believe that considering the magnitude, and implications, of the instant case, and even though the hunting trip was primarily a social event, that issues of the case would be discussed; especially since the Honorable Justice Antonin Scalia was in sole authority to grant, or deny, a 60 day extension of time to the Defendant's adversary, a non-attorney, *pro-se*, Lead Petitioner, during the same time frame.

The Supreme Courts own rules establish that, "***For good cause, a Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days.***" [46] In light of the two decisions of denial from the Office of the Clerk,[47] Petitioners are left to assume the Court's position, that the Lead Petitioner did not have a, ***"good cause"***. There is undeniable documented evidence that the FAA has been attempting to create workplace circumstances to unlawfully produce causation for the firing of Richard Arizpe, the Lead Petitioner, at the very same time that the subject extension of time was being requested. The intensity of the retaliation has receded slightly, only recently, due to the subsequent removal of Arizpe's immediate supervisor, only after a multitude of

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[46] Rules of the Supreme Court of the United States, Part III, 13.5., pg-10.
[47] See page 32-33.

peer employees expressed their concerns of the blatant retaliation. Such attempts by the Defendant to terminate the employment, (ie; fire), the Lead Petitioner for the Writ of Certiorari, would, within any reasonable assessment, most certainly comprise a, ***"good cause"***, to grant an extension of time.

With reference to the *ex-parte* communication, Petitioners do not make issue of a Justices recusal for the instant writ , but do make issue of whether or not Citizens of this nation are protected by the 1st and 14th Amendments to the U.S. Constitution of their rights for redress of grievances to the Government through equal access to the due process of law.[48] The present issue is one of Access to the Supreme Court. In reference to this instant case, from the only two responses from the Clerks office of the Supreme Court, without signature from any Justice, the Petitioners are left to assume that it is Justice Scalia that is preventing this case from so much as being allowed a preliminary review by the full court. That the Honorable Justice Antonin Scalia would grant the adversary, (Executive Branch), an audience, even if through an informal hunting trip, while simultaneously denying access to the due process of law, as provided for in our constitution, to the Petitioners, surely raises the most basic assumption, that at least, there is an appearance of bias.

Ultimately, for Justice's of the Supreme Court, it is the Oath of Office that transfers the privilege of Petitioners for an audience of the Extra Ordinary Writ into a constitutional duty for each Justice to apply as (s)he sees fit. The Supreme Courts Article VI mandate to uphold the Constitution, is not preempted by prerequisites to protect Political, and/or Federal Government Officials, or, as the Justice Department stated,

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[48] See page 40.

dependant upon the "public policy implications" of the infractions.[49]

There is an inherent bond between the Constitution, the Truth, and Justice, that cannot be separated. The survival of our Nation is totally dependant on this trinity. Without Truth, the Constitution becomes merely a parchment with a meaningless language. In Marbury v. Madison, 1803, Chief Justice John Marshall clearly stated that, ***"The Constitution is the Supreme Law of the Land."*** [50] One of the primary purposes of the Constitution is to ensure equal access to Justice for all of our citizens, hence, the Bill of Rights that includes the 7th Amendment Right to a Trial by Jury.[51] When such access is denied, by consensus of the three branches of our Republic, the resultant effect can be nothing less than a Consensus of Tyranny. Each individual component of the Constitutional Trinity; the Constitution, Truth, and Justice, must stand on it's own and be accountable to each other, as was the intention of it's producers. Justice is the cornerstone of the Constitution, and Truth is the mortar that bonds it's structure. To deny any component, at any point in time is to begin it's disintegration. This access to the Constitutional Trinity is the right of each citizen of the United States of America, including Federal Civil Service Employees, and as a result of the Executive, and Legislative denial of access to the Truth and Justice in this instant case, the responsibility has been passed on, by default, to the final court of our Judicial Branch to ensure and uphold our Constitutional rights.

Each Justice has received, through Certified Mail, their own copy of the Petition for Writ of Certiorari. The Unalienable Rights as described in our Declaration of Independence, and

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[49] Dkt-1, Vol-IV, Tab CCCG-SW #8, Sec. 8-5, page 65.
[50] See page 39, Article VI.
[51] See page 40.

as manifested within the Supreme Statutes of the Constitution of the United States of America, are indeed, as stated within the Declaration of Independence, "Protected by Devine Providence", and it is not the prerogative of the Judicial Branch to chose who will, and who will not, be **"Alienated"**, from those God given rights. On the contrary, the Judicial Branch, including the Supreme Court is charged with the stewardship of such Unalienable Rights, to ensure that no one person or entity, including the FAA, can deny such God given rights to even one single citizen. On the day that the Supreme Court decides to deny such God given rights to the least one of it's citizens, it is on that day that the three Branches of the United States Government will begin a **Consensus of Tyranny** upon the people of the United States of America. God Bless America.

IX. RELIEF (R. 20)

A. STANDARD

Each individual employee of the class be made whole, with legal, and equitable, relief, of past, present, and future, pecuniary, and non-pecuniary losses, or injuries, of compensatory, actual, consequential, expectant, incidental, nominal, prospective, rescissory, restitution, severance, continuing, discretionary, accumulative, enhanced, hedonic, moratory, uncertain, special, and irreparable, damages; to include offers of reinstatement of choice, offers to regain lost position status of choice, offers to regain lost wages, back pay, accrued benefits, front pay, overtime pay, compensatory time; and implementation of remedies of the National Memorandum of Understanding, NMOU, dated 12/9/94; and relocation/retention/special/critical pay allowances as specified in Federal Employees Pay Comparability Act of 1990, FEPCA; and severance benefits as specified in Order 3350.2C, Staffing Adjustments and Reductions in Force; and

any and all attorney fees, as well as any other relief to which s/he may show him/herself to be justly entitled.

B. SUBCLASSES

1. Employees suffering from violations of the Civil Rights Act, CRA.

2. Employees suffering from violations of the Age Discrimination in Employment Act, ADEA.

3. Employees suffering from violations of the Privacy Act, PA.

4. Employees whose CRA, ADEA, and PA cases were compromised by the Agency letters, (on record), dated 3/11/93, in violation of 1st Amendment; and letter dated 8/26/97 ordering the disposal of critical evidence, in violation, *inter alia*, of criminal statutes.

Considering the involuntary servitude portion of claim, if the use of ones racial attributes were of such value, that high level officials were monetarily compensated for achieving the much valued demographic representation results, then, employees harmed by this oppressive policy demand that those employees who sacrificed the highest price to produce such results, for as many years as such employees were made to suffer, be compensated, for every year suffered, by the same standards as that award sum which was provided to the highest ranking official in the Department. If the Secretary of DOT, or the Administrator of the FAA, or any other ranking official, received double their annual salary, as a bonus award, for achieving the highly valued results of demographic representation, then, it is justified that those

employees who provided the color of skin, or proper surname, or ethnic heritage, that helped achieve such, "RESULTS", also be entitled to compensation according to the value of their attributes, which without doubt, the least of which, at the minimum, must be worth the doubling of ones salary for every year he or she has served to fulfill this much valued commodity. Plaintiffs demand ***Rescissory***, and/or, ***Restitution***, damages/compensation for such harms, with implementation of relocation, retention, special, and critical pay for past and future time as provided for by FEPCA.

C. IRREPARABLE DAMAGES

There are certain irreparable damages, for example, loss of time with family, and the subsequent conversion of ones family to a single parent family, with consideration of the deliberate, and willful, indifference of the Executive and Legislative Branches, reference their sworn duty to support the Constitution, which in turn has delayed, accumulated, and compounded the harms to employees, that, in some cases, will be irreparable due to the $300,000 cap of compensatory damages for Federal employment cases. Employees demand the submission, and passage, of a Congressional Act, specific to this instant case, that will provide full relief for the irreparable harms as suffered by employees of the FAA. The Congress, by a deliberate indifference to the 9/27/00 letter, is culpable of affirmative misconduct by tacit approval of the Executive Branch's unlawful activities, and the Congress possesses the power to implement legislation to provide relief for such misconduct.

D. OTHER RELIEF

As a prerequisite to any resolution, or as part of jury determination, a demand for a Court Order, by and through the supervision of the Supreme Court, including full, and

significant, participation of at least three members of the original plaintiffs, for an Independent Commission to:

1. Initiate, monitor, and bring to completion a full investigation of the DOT/FAA policies, practices, and record keeping, related to compliance with the 1964 Civil Rights Act, 1991 Amended CRA, 1967 Age Discrimination in Employment Act, 1974 Privacy Act, and 29 Code of Federal Regulations, statutes and regulations.

2. Court ordered hiring of new minority employees to achieve the levels as currently established by statutes of law, congressional mandates, regulations, and any executive orders in effect.

3. In justification of court mandated hiring orders (item #2), a declaration as part of a jury determination, signed by the Secretary of the DOT and the U.S. Attorney General, establishing with full evidentiary support, that the FAA has willfully discriminated against protected classes, and has the propensity to discriminate against such protected classes.

4. Initiate, monitor, and bring to completion a full investigation, and assessment, in determination of whether or not the equal employment standards by which Federal Government minority hiring levels are presently established, meet the mandates as established by the written statutes and regulations of the law, and/or the spirit of such statutes and regulations.

5. Initiate, monitor, and bring to completion a full investigation, and assessment of the Intimidation, Coercion, and Fear placed upon Administrative Judges by upper level Management of the Equal Employment Opportunity Commission.

6. For the Department of Transportation to initiate, and implement, with mandatory participation of all Federal employees, a comprehensive course of study reference to all Federal Officials responsibilities, and duty, to uphold, support, and defend the Constitution of the United States of America, as sworn/declared within standard form SF-61, in compliance with Article VI of the Constitution.

7. Defendant to provide all funding necessary for Plaintiff's to retain, for the duration of the litigation, a minimum of three attorney's, of Plaintiff's choice, to serve as Counsel for the Plaintiffs, expert in Federal, Constitutional, and Class Action Law, with extensive experience at the Supreme Court Level.

8. A request from the Defendant, ie., the Executive Branch, to the Legislative Branch; specifically to the Judicial Committees of the Congress and the Senate, to fully investigate the question of **Racially Biased Decisions**, as are exemplified within this instant case, from the United States Court of Appeals for the Fifth Circuit, and from the United States District Court for the Western District of Texas, San Antonio Division.

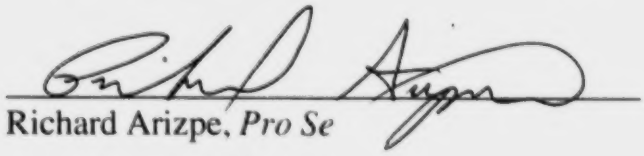
E. TRIAL BY JURY DEMAND

Plaintiff's demand Prohibition-Mandamus relief through the Supreme Court, and in the event that the Defendant fails, or wishes not to comply, with each and all relief demands as stated within this subsection, Plaintiff's demand a Trial by Jury, with oversight by the Supreme Court, as provided for by Article III, and the 7th Amendment of the Constitution of the United States of America.

WHEREFORE, PREMESIS CONSIDERED, it is the genuine prayer of Petitioner('s), that God may grant the United States Supreme Court the wisdom, and courage, to provide the neutral forum necessary so that Citizens of these United States may access the elusive Justice of which we have sought for so many years. Petitioners/Plaintiffs plea to the United States Supreme Court to reconsider its sworn duty, and address the issues/questions within this instant Petition for an Extraordinary Writ, along with the Petition for Writ of Certiorari.

Respectfully Submitted,

AUGUST 14, 2004



Richard Arizpe, *Pro Se*

P.O. Box 461544
San Antonio, Texas 78246-1544
Bus: 281-876-5659
Cell: 210-573-0902

X. APPENDIX

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479.3011

January 12, 2004

Mr. Richard Arizpe
2936 Indian Hollow
San Antonio, TX 78261

Re: Richard Arizpe
v. Norman Y. Mineta, Secretary of Transportation, et al.
No. 03IVI38

Dear Mr. Arizpe:

The Court today entered the following order in the above entitled motion:

The motion to direct the Clerk to file a petition for a writ of certiorari out-of-time is denied.

Sincerely,

s/*William K. Suter*

William K. Suter, Clerk

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

October 14, 2003

Mr. Richard Arizpe
2936 Indian Hollow
San Antonio, TX 78261

Re: Richard Arizpe v. Norman Y. Mineta,
Secretary of Transportation, et al.
Application No. 03A307

Dear Mr. Arizpe:
The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Scalia, who on October 14, 2003 denied the application.

This letter has been sent to those designated on the attached notification list.

Sincerely,
William K. Suter, Clerk
by s/Jennifer Sutton
Jennifer Sutton
Case Analyst

****

NOTIFICATION LIST

Richard Arizpe
2936 Indian Hollow
San Antonio, TX. 78261

****

STANDARD FORM 61
Revised June 1986
U.S. Office of Personnel Management
FPM Chapter 296
61-108

APPOINTMENT AFFIDAVITS

_____ _____
(Position to which appointed) (Date of appointment)

_____ _____ _____
(Department or agency) (Bureau or Division) (Place of employment)

I, _____, do solemnly swear (or affirm) that--

A. OATH OF OFFICE

I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

C. AFFIDAVIT AS TO PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in

expectation or hope of receiving assistance in securing this appointment.

_____
(Signature of appointee)

Subscribed and sworn (or affirmed) before me this ____ day of _____,19__,at _____ _____
(City) (State)

[SEAL] _____
(Signature of officer)

Commission expires _____ _____
(Title)

(If by a Notary Public, the date of expiration of his/her Commission should be shown)

NOTE.-*The oath of office must be administered by a person specified in 5 U.S.C. 2903. The words "So help me God" in the oath and the word "swear" wherever it appears above should be stricken out when the appointee elects to affirm rather than swear to the affidavits; only these words may be stricken and only when the appointee elects to affirm the affidavits.*

NSN 7540-00-634-4015 U.S. GOVERNMENT PRINTING OFFICE=1987 0-178-560
Prior Edition Usable

Standard Form 181 (7/80)
U.S. Office of Personnel Management
FPM Chapter 298

RACE AND NATIONAL ORIGIN IDENTIFICATION

(Please read the instructions and Privacy Act Statement before completing form)

Agency Use Only	Social Security Number/Name	Date of Birth

Privacy Act Statement

Solicitation of this information is authorized by section 2000e-16 of title 42, U.S. Code, which requires that agency employment practices are free from discrimination and provide equal employment opportunities for all, and by the Uniform Guidelines on Employee Selection Procedures (1978) 43 FR 38297 et seq. (August 25,1978), which requires agencies to examine employee selection procedures to identify any adverse impact those procedures have on women and minorities. This information will also be used to make statistical determinations under the Federal Equal Opportunity Recruitment Program (5 USC 7201) and affirmative action programs under Section 717 of Title VII of the Civil Rights Act of 1964 as amended.

Under Executive Order 9397, agencies were required to use the Social Security Number (SSN) as the means of identifying individuals in agency personnel information systems. Thus, solicitation of your SSN is authorized by this order so that agencies by being able to identify you can ensure that the data furnished is accurately recorded for each employee in the personnel system. It will be used only for that purpose.

The furnishing of these data is voluntary. However, since maintenance of accurate individual data is essential to successful compliance with these mandates, failure to provide your SSN will result in it being obtained from other sources

so as to ensure that the other data you provide is accurately recorded. .If you choose not to furnish these data, your agency is authorized to identify your race and national origin as that which the agency visually perceives to be your correct classification.

Specific Instructions: The categories below are designed to identify your basic racial and national origin category. If you are of mixed racial and/or national origin, identify yourself by the category with which you most closely identify yourself. Place an "X" in the box next to the appropriate category. NOTE: Mark **only ONE** box.

NAME OF CATEGORY (Mark **ONE** only)	DEFINITION OF CATEGORY
A□ American Indian or Alaskan Native	A person having origins in any of the original peoples of North America, and who maintains cultural identification through community recognition or tribal affiliation.
B□ Asian or Pacific Islander	A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.
C□ Black, not of Hispanic origin	A person having origins in any of the black racial groups of Africa. Does not include persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origins (see Hispanic).
D□ Hispanic	A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origins. Does not include persons of Portuguese culture or origin.

E□ White, not of Hispanic origin | A person having origins in any of the original peoples of Europe, North Africa, or the Middle East. Does not include persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origins (see Hispanic). Also includes persons not included in other categories.

| Categories for Use in Puerto Rico

D□ Hispanic | A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origins. Does not include persons of Portuguese culture or origin.

Y□ Not Hispanic in Puerto Rico | A person not of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures or origins whose official duty station is in Puerto Rico.

| Category for Use in Guam and Hawaii

Z□ Employees in Guam or Hawaii | Employees whose official duty station is in Guam or Hawaii.

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14 (f). CONSTITUTION, STATUTES, and REGULATIONS in REVIEW

* U.S. Constitution, Article I, Sec.8, & Sec. 9; "The Congress shall have the power to .... provide for the Common Defense and general Welfare of the United States." "To regulate Commerce .... among the several States ..." Sec. 9; "The Migration (relocation of persons) or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight ..." (excerpts; and parenthesis added)

* U.S. Constitution, Article II, Sec.3; "[h]e (The President of the U.S.A.) shall take Care that the Laws be faithfully executed..." (excerpts; and parenthesis added).

* U.S. Constitution, Article III, Sec.1, & Sec.2; "The Judicial Power of the United States, shall be vested in one Supreme Court, ..." Sec.2; "The Judicial Power shall extend to all Cases, in Law and Equity, arising under the Constitution, the Laws of the United States, ... --to all controversies to which the United States shall be a Party." "In all the other Cases before mentioned, the Supreme Court shall have Appellate Jurisdiction, both as to Law and Fact." (excerpts)

* U.S. Constitution, Article VI; "This Constitution, and the Laws of the United States which shall be made in pursuance thereof; .... under the Authority of the United States, shall be the Supreme Law of the Land; ...." "The Senators and Representatives ...., and the Members of .... all executive and judicial Officers, ... of the United States ....

shall be bound by Oath or Affirmation, to support this Constitution ...." (excerpts)

* U.S. Constitution, Amendment I; "Congress shall make no law .... abridging the freedom of speech, ... or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." (excerpt)

* U.S. Constitution, Amendment V; "No person shall....be deprived of Life, Liberty, or property, without due process of law;..." (excerpt)

* U.S. Constitution, Amendment VII; "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."

* U.S. Constitution, Amendment IX; "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

* U.S. Constitution, Amendment XIII, Sec. 1; "Neither slavery nor involuntary servitude, ... shall exist within the United States,...."

* U.S. Constitution, Amendment XIV, Sec. 1; "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

* Civil Rights Act of 1964, Amended 1991, 42 USC, Sec. 2000e-2(a), "It shall be an unlawful employment

practice for an employer- (1) ...to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin, or (2) to limit, segregate, or classify his employees....in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individuals race, color, religion, sex, or national origin."

2000e-2(j), "Nothing contained in this subchapter shall be interpreted to require any employer, ..., or joint labor-management committee, subject to this subchapter to grant preferential treatment to any individual or to any group because of the race, ..., sex, national origin, of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, ..., sex, national origin employed by any employer..."

Six Statutes of Law, Title VII, 42 U.S.C.(Referred to in pages ii, 4, & 27 of PWC):

Title VII, 2000e-2 (n) (1) (A):
Not withstanding any other provisions of law, and **except as provided in paragraph (2)**, an employment practice that implements and is within the scope of a litigated or consent judgment or order that resolves a claim of employment discrimination under the constitution or Federal civil rights laws may not be challenged under the circumstances described in subparagraph (B).

Title VII, 2000e-2 (n) (2)-(B):
(2) Nothing in this subsection shall be construed to-(B) apply to the rights of parties to the action in which a litigated

or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

Title VII, 2000e-2 (n) (1) (B) (ii):
(B) A practice described in subparagraph (A) may not be challenged in a claim under the Constitution or Federal civil rights laws- (ii) by a person whose interests were adequately represented by another person who had previously challenged the judgment or order on the same legal grounds and with similar factual situation, **unless there has been an intervening change in** the law or **fact.**

Title VII, 2000e-2 (n) (2)-(C):
(2) Nothing in this subsection shall be construed to-(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction;

Title VII, 2000e-2 (n) (2)-(D):
(2) Nothing in this subsection shall be construed to-(D) authorize or permit the denial to any person of the due process of law required by the constitution.

Title VII, 2000e-16. (Section 717)
Employment by Federal Government: (e) Nothing contained in this act shall relieve any Government agency or official of its or his primary responsibility to assure non discrimination in employment as required by the Constitution and statutes or of its or his responsibilities under Executive Order 11478 relating to equal employment opportunity in the federal Government.

* Age Discrimination in Employment Act of 1967, 29 USC

Sec. 623(a) "It shall be unlawful for an employer-(1)..., to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age; (2) to limit, segregate, or classify his employees in any way which would deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age;..."

* Privacy Act of 1974, USC 5, Sec. 552a

Sec. 552a (b): "Conditions of disclosure-No agency shall disclose any record which is contained in a system of records by any means of communication to any person,...except pursuant to a written request by, or with prior written consent of, the individual to whom the record pertains,..."

Sec. 552a (c): "Accounting of Certain Disclosures."

Sec. 552a (e) (4): "Agency requirements-Each agency that maintains a system of records shall -- (4) ...publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include---(D) each routine use of the records contained in the system, including the categories of users and the purpose for such use; (E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;"

Sec. 552a (e) (8): "Agency requirements-Each agency that maintains a system of records shall--make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person

under compulsory legal process when such process becomes a matter of public record"

Sec. 552a (e) (10): "Agency requirements-Each agency that maintains a system of records shall-- establish appropriate administrative, technical and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats of hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained"

* Federal Employees Pay Comparability Act of 1990 (FEPCA), FAA Order 3550.15.

Chapter 10. Relocation Bonuses, Paragraph 101, Policy: "FAA may consider the payment of a relocation bonus to a maximum of 25% of annual basic pay for the new position...(2) When it may serve as an incentive to attract a candidate with special qualifications who would otherwise not be willing to relocate to fill a vital position."

Chapter 11. Retention Allowances, Paragraph 111, Policy: "FAA may authorize the payment of a retention allowance up to a maximum of 25% of an employee's rate of basic pay to a current permanent employee if the unusually high or unique qualifications of the employee or a special need of FAA for the employee's services makes it essential to retain the employee, and that the employee would be likely to leave for employment outside of the Federal service in the absence of a retention allowance."

Chapter 13. Special Salary Rates, Paragraph 131, Policy: "It is FAA policy to recognize and utilize the flexibilities available through intelligent application of special salary rates for dealing with local, regional, and

national recruitment and relocation problems whenever appropriate."

* Code of Federal Regulations, CFR, Title 29, Vol.4,

Sec. 1611.1 Purpose and Scope--..."All records contained in system EEOC/GOVT-1, including those maintained by other agencies, are subject to the Commission's Privacy Act regulations."

Sec. 1614. 601 (b) & (c). EEO Group Statistics--.....(b) "Data on race, national origin, and sex shall be collected...", & (c) "The information collected under paragraph (b) of this section shall be disclosed only in the form of gross statistics."

* Human Resource Management (AHR) Directive FAA Order 3550.2C, Staffing Adjustments and Reductions in Force.

Chapter 6. Severance Pay, Paragraph 65, Coverage: "Employees who are involuntarily separated from Federal service may be eligible for severance pay."